

SEP 15 2014

JULIE A. RICHARDS, CLERK
US DISTRICT COURT, SDC
BY DEF CLK

CASE NO. 7:14 CV 44 D

**RESPONSE TO
DEFENDANT'S PROPOSED
FINDINGS OF FACT**

VS.

NEW HANOVER COUNTY SHERIFF'S
DEPARTMENT,
INCLUDING, BUT NOT LIMITED TO:
DEPUTY SHERIFF J.M. KNOX,
DEPUTY SHERIFF S.B. TAYLOR,
DEPUTY SHERIFF W.J. BAXLEY,
RESPONDING DEPUTY SHERIFF'S OF SQUAD
"B"

In his or her individual and official capacities

Defendants

Defendants maintain that the Plaintiff has failed to overcome the arguments in support of dismissal of the claims against Defendants. Plaintiff has submitted sworn Affidavits and Exhibits in support of Plaintiff's Argument of Sustainable Facts outlined in Plaintiff's Response to Motion to Dismiss. Furthermore, two (2) of the sworn Affidavits are from Mr. & Mrs. Nelson Bell, Sr. who were called directly by the New Hanover County Sheriff's Dispatch Department and asked to come to the Plaintiff's residence and assist in having the Plaintiff come out of the residence and talk to Deputy

Sheriff J.M. Knox. The sworn Affidavits are not “extrinsic” as Defendants maintain. Essentially, Mr. & Mrs. Nelson Bell, Sr. were summoned to the residence by The Sheriff’s Department and in doing so, clearly became witnesses with direct, first-hand knowledge of the excessive and wrongful actions of the Defendants, along with third (3rd) witness, Mr. Gene Beck (i.e.: physical beating, unreasonable search of Plaintiff’s residence without due process and unreasonable search of Plaintiff’s person and property),

Defendants maintain that in Plaintiff’s Response, Plaintiff repeats “conclusory” allegations of unreasonable seizure, intimidation, unreasonable search of person and property, due process rights violated and the victim of excessive assault & battery, in violation of Plaintiff’s rights, which were contained in original complaint. Defendants are simply attempting to minimize the nature of Plaintiff’s complaint. Focus needs to remain on the merit of the case. Plaintiff was arrested for misuse of the 911 system, not resisting arrest. Some use of force could be tolerated & understood had the Sheriff Deputies needed to maintain control of the situation – but this was not the case. The misuse of the 911 system charge was later found to be unfounded and dismissed. Also, Defendants called for Paramedics to respond and treat the Plaintiff for injuries sustained by Defendants.

Defendants allege that “John Doe” Sheriff Deputies who have not been identified as of the time of Plaintiff’s original complaint should be dismissed. Due diligence was exerted prior to Statute of Limitations (March 4, 2014). However, as previously stated, no assistance was offered by the New Hanover County Sheriff’s Department. The identity of these Deputies is being subpoenaed & will be served accordingly. The “John Doe”

Sheriff's Deputies who responded share equal liability in the wrongful and excessive assault & battery injuries sustained by Plaintiff and should be held accountable for those actions. Defendant's council does not represent the unnamed Deputy Sheriff's at present and therefore should have no say with regards to the matter. Plaintiff hereby respectfully requests the court to allow "John Doe" Deputy Sheriff's to remain named in the complaint, once their identities are ascertained.

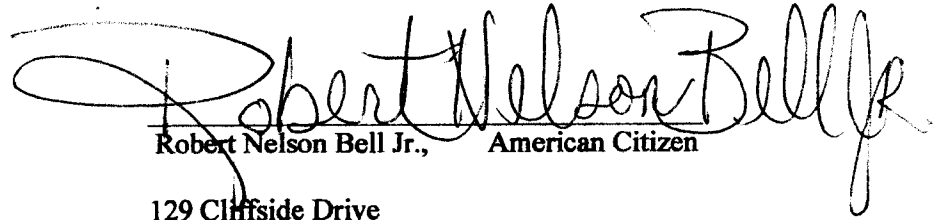
New Hanover County Sheriff's Department as a whole, is named in the complaint due to the fact that they employ the Deputy Sheriffs. New Hanover County Sheriff's Department is jointly responsible for the actions of their employee's actions & Plaintiff hereby respectfully requests the court to allow the New Hanover County Sheriff's Department to continue to be named in the complaint.

CONCLUSION

In light of the aforementioned Responses to Defendant's Reply Brief, Plaintiff hereby respectfully requests the court to allow the Plaintiff's Civil Rights Violations Complaint to move forward and be heard.

Respectfully Submitted,

All Rights Reserved

A large, stylized handwritten signature in black ink that reads "Robert Nelson Bell Jr." The signature is written in a cursive style with a large initial 'R' and a long, sweeping underline.

Robert Nelson Bell Jr., American Citizen

129 Cliffside Drive

Wilmington, North Carolina 28409

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the **RESPONSE TO DEFENDANT'S PROPOSED FINDINGS OF FACT**, was personally filed with the Clerk of Court in New Hanover County and mailed by First-Class Mail, postage prepaid, to Defendant(s) council at the address listed below.

SUMRELL, SUGG, CARMICHAEL, HICKS & HART, P.A.
P.O. Box 889
New Bern, North Carolina 28563

This the 12th day of September 2014

By: Robert Nelson Bell, Jr
129 Cliffside Drive
Wilmington, NC 28409

A handwritten signature in cursive script that reads "Robert Nelson Bell Jr." with a horizontal line extending from the end of the signature.